

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DARA HEM,

Plaintiff,

vs.

Civil No. 09-888 MCA/RLP

**TOYOTA MOTOR
CORPORATION, et al.,**

Defendant.

**ORDER DENYING
MOTION FOR EXTENSION OF EXPERT DESIGNATION DEADLINE**

On December 15, 2009, Plaintiff filed a Motion to Compel additional depositions of Defendant's representatives pursuant to F.R.Civ.P.30(b)(6), combined with a Motion to extend Plaintiff's deadline to disclose expert witnesses. (Docket No. 131). The Motion to take additional depositions is taken under advisement and will be addressed in a separate Order. The Motion for extension of Plaintiff's deadline to disclose expert witnesses is denied.

I. Background

This action was originally filed in the United States District Court for the Eastern District of Texas, Marshall Division, on March 12, 2007, and involves a motor vehicle accident which occurred on April 9, 2005. (Docket No. 1). Plaintiff's original deadline for disclosure of expert witnesses was January 22, 2008. (Docket No. 22).

On December 12, 2007, Plaintiff moved for new deadlines to be established. (Docket No. 30). A hearing on this and other pending motions was held on June 13, 2008. (Docket No. 57). Pursuant to an Amended Docket Control Order entered on July 23, 2008, Plaintiff was to designate his expert witnesses and provide expert witness reports by July 31, 2008. (Docket No. 70). There is no indication in the docket that this disclosure was made by Plaintiff, although several Defendants

did make expert disclosures. (Docket Nos. 84-91).

On January 6, 2009, Plaintiff again moved to amend the scheduling order, stating that he had only recently taken the depositions of the Toyota defendants, and therefor his own expert witnesses could not be identified. (Docket No. 102). Plaintiff's representation to the court was not entirely correct or especially candid. Defendant produced six witnesses pursuant to Rule 30(b)(6). Motoki Shibata was deposed for four hours on June 5, 2008; Takashi Shirasu was deposed for 37 minutes on June 5, 2008; Ernest Bastien was deposed for two hours and forty-five minutes on September 16, 2008; Andrew Coetzee was deposed for an unknown period of time on September 17, 2008; Takayuki Kanaya was deposed for three hours on December 11, 2008; and Akira Nagae was deposed over a five hour period, with numerous breaks and extended discussions among counsel, on December 11, 2008. (Docket No. 131, Exs. D, E, F and G; Docket No. 131, Exs. D and G).

On August 20, 2009, a Memorandum Opinion and Order was entered transferring this case to the District of New Mexico and suspending all pending deadlines. (Docket No. 118).

On November 10, 2009, this court entered a Scheduling Order setting the following deadlines:

February 16, 2010	Plaintiff's expert witness disclosure and reports
March 18, 2010	Defendant's expert witness disclosure and reports
May 17, 2010	End of discovery
June 7, 2010	Motions relating to discovery
June 17, 2010	Pretrial motions other than discovery motions.
August 2, 2010	Plaintiff to submit Pretrial Order to Defendant
August 16, 2010	Defendant to submit Pretrial Order to the court.

(Docket No. 128).

II. Discussion

“Control of discovery is entrusted to the sound discretion of the trial courts.” **Martinez v. Schock Transfer and Warehouse Co., Inc.**, 789 F.2d 848, 850 (10th Cir. 1986). Plaintiff has had almost three years to investigate this case, and should be prepared at this time to make expert disclosures. In the event this court subsequently grants Plaintiff’s Motion for additional Rule 30(b)(6) depositions, it will entertain a Motion to permit Plaintiff to serve supplemental expert witnesses reports.

IT THEREFORE ORDERED that Plaintiff’s Motion to take additional depositions of Defendant’s representative pursuant to F.R.Civ.P. 30(b)(6) is taken under advisement.

IT IS FURTHER ORDERED that Plaintiff’s Motion to extend his expert witness disclosure deadlines is **DENIED**. Plaintiff shall disclose his expert witnesses and provide expert witness reports no later than February 16, 2010.

IT IS SO ORDERED.



RICHARD L. PUGLISI
Chief United States Magistrate Judge